

Boston Redevelopment Authority

Report and Decision

on

Application by Lillian K. Drescher and Others

for

Authorization and Approval

of

Project under Chapter 121A of the General Laws

of the Commonwealth of Massachusetts

and Chapter 652 of the Acts of 1960

and for

Consent

to Formation of

Back Bay Manor Apartments, Inc.

BOSTON REDEVELOPMENT AUTHORITY

REPORT AND DECISION ON APPLICATION OF LILLIAN K. DRESCHER AND OTHERS FOR CONSENT FOR FORMATION OF BACK BAY MANOR APARTMENTS, INC. AND FOR APPROVAL OF REDEVELOPMENT PROJECT WHITNEY STREET, PARCEL 2.

A. A public hearing was held on April 15, 1966, at 11 a.m. at the Gardner Auditorium, State House, Boston, by the Boston Redevelopment Authority (hereinafter sometimes called "the Authority") on an Application (hereinafter called "the Application") filed by Lillian K. Drescher and others (sometimes hereinafter called "the Applicant") for the consent to the formation and organization of a corporation to be known as "Back Bay Manor Apartments, Inc.," (sometimes hereinafter referred to as "the Corporation") to be organized pursuant to the provisions of Chapter 121A of the Massachusetts General Laws, as amended, and Chapter 652 of the Acts of 1960, which corporation shall carry out the undertakings and obligations as set forth in said Application and proposed Lease between the Boston Redevelopment Authority and Back Bay Manor Apartments, Inc., the same being Exhibit C annexed to the Application, the terms and conditions of said proposed Lease

containing substantially the same terms and conditions which are contained in the Agreements concerning said Whitney Redevelopment Project between Beacon Redevelopment Corporation (Parcel 1) and the Boston Redevelopment Authority dated June 1, 1959; and the Agreement between said Authority and Leatherbee & Company dated June 3, 1960 (Parcel 3), all as contained in Leases executed pursuant thereto by Charlesbank Apartments, Inc. (Parcel 1) and Back Bay Towers, Inc. (Parcel 3), the respective 121A Corporations organized by sponsors in each of said respective Agreements with the approval of the Authority, and for permissions by the Authority for the Project described in the Application to deviate from zoning and certain other laws, codes, ordinances and regulations in effect in the City of Boston, and for a determination by the Authority that the part of the structures to be used as a garage on the premises comprising the Project

Area will not be substantially detrimental to any buildings within 500 feet of such structures occupied in whole or in part as a public or private school having more than fifty pupils or as a public or private hospital having more than twenty-five beds or as a church, and for a declaration by the Authority that, while the Project involves the construction of units which constitute a single building under the Boston Building Code and Zoning Law, such units constitute separate buildings for the purpose of Chapter 138 of the General Laws of the Commonwealth of Massachusetts.

Due notice of said hearing was given on order of the Authority in accordance with Rule 8 of the Rules and Regulations for Securing Approval of Projects in Boston under Chapter 121A of the General Laws of the Commonwealth of Massachusetts as Amended, adopted by the Authority and approved by the Mayor of the City of Boston, and in accordance with the provisions of Section 13 of Chapter 652 of the Acts of 1960, by publication on March 31, 1966 and April 7, 1966 in the

Christian Science Monitor, a daily newspaper in general circulation published in Boston, and by mailing, postage prepaid, to certain interested persons all as appears from Exhibit (1) introduced at the hearing.

There were present, in behalf of the Authority, the following persons: The Rt. Rev. Mesgr. Francis J. Lally, Chairman, presided. The following members of the Authority were present throughout the hearing: Stephen E. McCloskey, James G. Colbert and Kane Simonian, Executive Director and Secretary.

The Project consists of the leasing by Back Bay Manor Apartments, Inc. of Lots #2 and #2A on a plan entitled "Boston Redevelopment Authority City of Boston Suffolk County Massachusetts Whitney Redevelopment Area Land Disposition Plan" by Henry F. Bryant & Son, Inc., Engineers, dated August 25, 1960 (excepting therefrom any land taken for the widening of St. Alphonsus Street pursuant to the Redevelopment Plan of

the Authority hereinafter referred to), and the construction, operation and maintenance thereon of an apartment house consisting of a 16 story building containing 210 dwelling units plus a janitor's apartment and an appurtenant two level above grade parking facility providing accommodation for 210 automobiles. The premises on which the Project is to be located are hereinafter referred to as "the Project Area".

In passing upon the Application, the Authority has considered the Application itself, all documents, plans and exhibits filed therewith or referred to therein, the oral evidence presented at the hearing, the exhibits offered in evidence at the hearing and the arguments and statements made at the hearing. The members of the Authority have also viewed the Project Area. The Authority members at the hearing were familiar with the Project Area in the neighborhood in question, the same having been considered in connection with the hearings on the application of Charles Bank Apartments, Inc. , which hearing took place on January 12, 1961 at the State House, Boston, and Back Bay Towers Inc. which hearing took

place on May 23, 1962 at the State House, Boston. The Project Area is part of a greater parcel, which has included in it the parcel upon which the Charles Bank Apartments, Inc. and Back Bay Towers, Inc. have already completed construction and development.

The Project as defined in the Application constitutes a "Project" within the meaning of said Chapter 121A, Section 1, providing, as it does, for the construction, operation and maintenance of a decent, safe and sanitary residential building in part of a larger area which was previously declared to be a substandard and decadent area under Chapter 121 of the General Laws by the Authority in its "Land Assembly and Redevelopment Plan for the Whitney Redevelopment Area" and was taken by the Authority by eminent domain on July 14, 1960 in furtherance of said Redevelopment Plan.

Conditions exist which warrant the carrying out of the Project and in the opinion of the Authority the cost of the Project has been correctly

estimated in the Application and the Project will be practicable. As stated above, the Project Area is included within a larger area which the Authority has already found to be substandard and decadent under the provisions of Chapter 121 and has taken by eminent domain. The carrying out of the Project will provide desirable housing accommodations for persons of moderate means, of which there is a serious shortage in Boston. The Project is near the Mission Church, a large group of medical and educational institutions, museums, parks and other public facilities, and is adjacent to direct rapid transit MBTA service to downtown Boston. The Authority has received and has in its possession a letter from the Federal Housing Administration stating that the entire Whitney Street Redevelopment Area, of which the Project Area is a part, is eligible for Federal Housing Administration mortgage insurance under Section 220 of the National Housing Act, and the Applicants have received informal approval from the Federal Housing Administration for mortgage

financing for the Project. All of the funds which will be required in addition to those obtained from the Federal Housing Administration mortgage financing are available to the Applicants. Pursuant to a Lease to be entered into between the Authority and Back Bay Manor Apartments, Inc., referred to in the Application, a surety company performance bond will be given to the Authority for the amount of the construction cost, or other security assuring completion of the improvements satisfactory to Federal Housing Administrator. Once the Project improvements have been completed, they will themselves constitute security for the obligation to pay the rental due the Authority under the lease which is to be entered into by the Authority and the 121A Corporation.

The Project does not conflict with the Master Plan of the City of Boston.

The Project will result in a substantial financial return to the City of Boston inasmuch as under the terms of the lease referred to above

there will be payable to the Authority a sizeable minimum rent which the Authority, in accordance with its existing Cooperation Agreement with the City of Boston, will remit to the City after deducting certain operating costs and expenses of the Authority.

The Project will not be in any way detrimental to the best interests of the public or the City or to the public safety or convenience or be inconsistent with the most suitable development of the City. The Project will in fact forward the best interests of the City and will constitute a public use and benefit. The structure to be erected under the Project is an attractive and efficiently designed high-rise apartment building with ample light and air and appurtenant green spaces and will enhance the general appearance of the Area and furnish attractive and necessary accommodations for families of moderate means and as designed is compatible with the structures presently erected by Charles Bank Apartment Inc., and Back Bay Towers Inc.

The carrying out of the Project will not of itself involve the destruction or rehabilitation of buildings occupied in whole or in part as dwellings since such destruction and a clearance has in fact been accomplished by the Authority in carrying out its Redevelopment Plan referred to above. The Authority has in fact already relocated families displaced from the Project Area.

The Project Area does not include land within any location approved by the State Department of Public Works for the extension of the Massachusetts Turnpike into the City of Boston.

The minimum standards for financing, construction, maintenance and management of the Project as set forth in Exhibits E, G, H and J filed with and attached to the Application are hereby adopted and imposed as rules and regulations (in addition to those hereinafter adopted and imposed) applicable to the Project for the same period as the Project is subject to the provisions of Chapter 121A of the General Laws and Chapter 652 of the Acts of 1960. The

Authority hereby approves any financing made pursuant to paragraph 9 of the Application which is insured by the Federal Housing Administration notwithstanding that the amount thereof is in excess of 90% of the estimated cost of the Project.

Exhibit I, filed with and attached to the Application, sets forth the permissions requested for the Project to deviate from Zoning and other regulations in effect in the City of Boston.

- 1) The Applicant's request for permission (Roman Numeral I, sub-paragraph 2. b.) is hereby granted, the Authority having determined that said parking facility is not a building of more than one story and does not exceed 15 feet in height above the ground floor elevation and will not have an enclosed roof.
- 2) The Applicant's request for permission (Roman Numeral II) is hereby granted to deviate from Section 1006a of the Boston Building Code exterior wall window requirements for kitchens containing more than 70 square feet in area, provided the kitchens are adequately lighted and properly ventilated to the satisfaction of the Building Commissioner of the City of Boston.

- 3) The Authority hereby grants the permission requested under Roman Numeral III, Exhibit I, to deviate from the provisions of Section 1008 (a) of the Building Code of the City of Boston, which requires the installation of certain automatic sprinklers, the Authority hereby finding that such permission may be granted without substantially derogating from the intent and purposes of such code and being satisfied that a fire detection system consisting of a fire detection head centrally located in each apartment, and, on each Typical Floor and in each of the "Janitor's Closets" and a master panel located in the main entrance-way of the building will sufficiently satisfy the purposes for which it is to be used and the purposes of said Section 1008 (a); and the Authority, that the said apartment building contain a fire detection system substantially similar to the system shown on the Plan entitled, "Preliminary, May 8, 1961, Charlesbank Apartments, Inc., Boston, Massachusetts," and prepared by Hugh Stubbins and Associates, Inc..
- 4) Permission requested in Roman Numeral IV A with respect to "Building Code Requirements for Reinforced Concrete" (ACI. 318-56) is hereby granted.
- 5) Permission requested in Roman Numeral IV A with respect to "Proposed Revision of the Boston Building Code, Part 29 - Foundations" is hereby denied.

- 6) Permission requested in Roman Numeral IV B is hereby granted.
- 7) Permission requested in Roman Numeral IV C to deviate from Section 807 (f) of the Building Code, requiring automatic sprinklers, is hereby granted subject to the following provisions:
 - a) Cars will not be repaired or serviced with gas or oil in the parking facility;
 - b) The facility will be appropriately landscaped; and
 - c) The parking facility shall contain an appropriate number of portable fire extinguishers stationed at appropriate intervals as determined by the Fire Department of the City of Boston.
- 8) Permission requested in Roman Numerals Va, Vb, Vc and Vd of said Exhibit I are hereby granted.
- 9) The applicant's request contained in Roman Numeral Ve is hereby denied without prejudice subject to the provisions of Section 13 of Chapter 652 of the Acts of 1960 and Chapter 121A of the Massachusetts General Laws as amended.

For the reasons set forth in the Application and supporting documents, including said Exhibit I and on the evidence presented at the hearing, and in this report, the Authority hereby finds that each and every one of the granted permissions is reasonably necessary for the carrying out of the Project and

The Authority hereby adopts and imposes, in addition to those hereinabove and elsewhere set forth in this Report and Decision and as applicable to the Project for the same period, the following rules and regulations.

The Applicant shall furnish the Authority with a copy of all submittals filed with the Federal Housing Administration in connection with its application for mortgage insurance; a copy of all reports and statements required by the Federal Housing Administration in connection with the construction, management, and operation of the Project; a copy of all certificates and approvals obtained from the Federal Housing Administration in connection with the construction, management and operation of the Project, including but not limited to the certificates of feasibility, insurance, authorization to proceed, etc; the Applicant shall promptly and in no event later than 30 days notify the Authority of all actions taken or decisions made by the Federal Housing Administration with respect to said Project.

In carrying out the Boston urban renewal program, the Authority has adopted planning and design objectives to improve the quality of the future development in the City of Boston. Design review and controls are standard provisions in all urban renewal approvals granted by the Authority.

Said Parcel 2 in the Whitney Redevelopment Project is located in an area of Boston which has great visual importance and identity and is part of an area which is very important to the City because of the great number of institutions and natural facilities.

The Authority hereby determines that it is in the great public interest to insure that the construction of the proposed building on Parcel 2 be harmonious to the greatest extent possible with the design of the existing buildings on Parcel 1 and 3. With this objective in view, the Authority hereby imposes a further regulation that the preliminary and final plans and specifications of the Applicant be subject to review and approval by the Authority with respect to design.

Preliminary plans and outline specifications for the construction of this Project shall be submitted to the Authority within 90 days after the execution of the lease.

Within 90 days after such preliminary approval, the Applicant shall submit to the Authority final architectural plans and specifications prepared by the Architect and in conformity with the previously approved preliminary plans and outlined specifications, the Site Plan, the Plan, the Application under Chapter 121A and Chapter 652 of the Acts of 1960, the Project and this Report and Decision.

Final architectural plans and specifications submitted hereunder shall be reviewed for such conformity by the Authority. The Authority shall review and approve or disapprove such plans and specifications and shall promptly notify the Applicant of its approval or disapproval in writing, setting forth in detail any grounds for disapproval. If no grounds of disapproval are delivered in writing to the Applicant within thirty (30) days after submission, such plans shall be deemed approved.

In the event of a disapproval, the Applicant shall, within thirty (30) days after the date the Applicant receives the written notice of such disapproval, resubmit the plans and outline specifications altered to meet the grounds of disapproval. The resubmission shall be subject to the review and approval of the Authority in accordance with the procedure hereinabove provided for an original submission.

The Applicant shall not apply for a building permit for the construction of the Improvements to be erected on the Property without the prior certification of the Authority that the work to be done or completed is in accordance with the final architectural plans and specifications approved by the Authority in accordance with the provisions of the Application. No work shall be done on the construction of the Improvements to be erected on the Property unless such work conforms in every respect with such approved final architectural plans and specifications, except and only to the extent that modifications thereof have been requested by the Applicant in writing and have been approved in writing

by the Authority, and except that such plans and specifications may be modified from time to time by the Applicant acting alone, provided the plans and specifications as thus modified are in substantial conformity with the final architectural plans and specifications as approved by the Authority.

In the event the Applicant shall fail to comply with the foregoing requirements, the Authority, may, within a reasonable time after discovery thereof by the Authority, direct in writing that the Applicant so modify or reconstruct such portion or portions of the Improvements erected or being erected on the Property as are not in conformance with the approved Final Plan, or any approved modifications thereof, as to bring them into conformance therewith. The Applicant shall promptly comply with such a directive.

The Applicant shall not discharge the Architect without cause or hire new or additional architects or alter or amend the contract for architectural services between the Architect and the Applicant without in each instance obtaining the prior written consent of the Authority. All FHA requirements concerning the employment and services of architects shall also be observed.

The Authority hereby finds that the Application and the Project conform to and comply with each and every applicable requirement of Chapter 121A of the General Laws, and Chapter 652 of the Acts of 1960, and the applicable Rules and Regulations of the Authority, and the Authority, for these reasons and for the reasons set forth in the Application and supporting documents, including Exhibit I, and the evidence presented at the hearing and upon the terms and conditions set forth in this report and decision, does hereby approve the Project and consents to the formation of Back Bay Manor Apartments, Inc., as requested in the Application, and consents to the filing of the Articles of Organization for such corporation substantially in the form annexed to said Application.